

# Customs Bulletin

Regulations, Rulings, Decisions, and Notices  
concerning Customs and related matters



## and Decisions of the United States Court of Customs and Patent Appeals and the United States Court of International Trade

Vol. 15

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AUGUST 12, 1981

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No. 32

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THE DEPARTMENT OF THE TREASURY  
U.S. Customs Service

## NOTICE

The abstracts, rulings, and notices which are issued weekly by the U.S. Customs Service are subject to correction for typographical or other printing errors. Users may notify the U.S. Customs Service, Logistics Management Division, Washington, D.C. 20229, of any such errors in order that corrections may be made before the bound volumes are published.

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# U.S. Customs Service

## *Treasury Decisions*

(T.D. 81-200)

### Synopses of drawback decisions

The following are synopses of drawback rates issued May 5, 1981, to June 11, 1981, inclusive, pursuant to sections 22.1 through 22.5, inclusive, Customs Regulations.

In the synopses below are listed for each drawback rate approved under 19 U.S.C. 1313(a), the name of the company, the specified articles on which drawback is authorized, the merchandise which will be used to manufacture or produce these articles, the factories where the work will be accomplished, the date the statement was signed, the basis for determining payment, the Regional Commissioner who issued the rate, and the date on which it was signed.

(DRA-1-09)

Filed: DRA-1-09, 213257.

Dated: July 22, 1981.

GEORGE C. STEUART

(For Marilyn G. Morrison, Director,  
Carriers, Drawback and Bonds Division).

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(A) Company: Alcan Aluminum Corp., Alcan Sheet & Plate Div.  
Articles: Aluminum and aluminum alloy sheet in coil form, (cold rolled, thermal treated and edge trimmed).

Merchandise: Imported aluminum and aluminum alloy sheet in coil form.

Factories: Oswego, NY; Warren, OH; Fairmont, WV.

Statement signed: April 7, 1981.

Basis of claim: Used in, less valuable waste.

Rate issued by Regional Commissioner of Customs: Boston, May 13, 1981.

(B) Company: All-Power, Inc.

Articles: Diesel driven electric generator sets.

Merchandise: Imported A.C. alternators, diesel engines, and circuit breakers.

Factory: Conshohocken, PA.

Statement signed: May 7, 1981.

Basis of claim: Used in.

Rate issued by Regional Commissioner of Customs: Baltimore, May 19, 1981.

Revokes: T.D. 78-379-A and T.D. 79-2-B to cover change in name from All-Power Supply Co.

(C) Company: Amelco Products, Inc.

Articles: Diesel driven electric generator sets.

Merchandise: Imported A.C. alternators, diesel engines, circuit breakers.

Factory: Conshohocken, PA.

Statement signed: May 7, 1981.

Basis of claim: Used in.

Rate issued by Regional Commissioner of Customs: Baltimore, May 19, 1981.

(D) Company: Amprobe Instrument Division of Core Industries, Inc.

Articles: Various electric testing equipment.

Merchandise: Imported parts and components for electrical testing equipment.

Factory: Lynbrook, NY.

Statement signed: February 25, 1981.

Basis of claim: Appearing in.

Rate issued by Regional Commissioner of Customs: New York, May 21, 1981.

(E) Company: Burroughs Corp.

Articles: Finished semiconductors.

Merchandise: Imported unfinished semiconductor subassemblies.

Factory: San Diego, CA.

Statement signed: May 8, 1981.

Basis of claim: Appearing in.

Rate issued by Regional Commissioner of Customs: San Francisco, June 8, 1981.

(F) Company: Clinton Electronics Corp.

Articles: Cathode ray tubes.

Merchandise: Imported glass envelopes (bulbs).

Factory: Rockford, IL.

Statement signed: March 25, 1981.

Basis of claim: Used in.

Rate issued by Regional Commissioner of Customs: Chicago, May 13, 1981.

(G) Company: Cook Bros. Equipment Co.

Articles: Transit concrete mixers, concrete pumps, dump trailers, textile machinery, industrial mixers, blenders, and processors, marine engines and parts, recreational vehicles and trucks.

Merchandise: Imported sheet or roll steel, transmissions, gear boxes, rubber hose hydraulic and concrete pumping cylinders and controls hydraulic pumps and motors, internal combustion engines, and diesel engines and components.

Factories: Industry, CA; Bryan, OH; Calhoun, GA; Warren, OH.

Statement signed: April 23, 1981.

Basis of claim: Appearing in.

Rate issued by Regional Commissioner of Customs: Los Angeles, May 5, 1981.

(H) Company: Dart Truck Company Division, PACCAR.

Articles: Front end loaders, log stackers and other heavy duty off-highway trucks and equipment.

Merchandise: Imported engines and tires.

Factory: Kansas City, MO.

Statement signed: May 13, 1981.

Basis of claim: Used in.

Rate issued by Regional Commissioner of Customs: Chicago, May 20, 1981.

(I) Company: Dorado Micro Systems, dba International Memories, Inc.

Articles: Disc drives.

Merchandise: Imported electric motors.

Factories: Cupertino, CA; White City, OR.

Statement signed: April 30, 1981.

Basis of claim: Appearing in.

Rate issued by Regional Commissioner of Customs: San Francisco, May 6, 1981.

(J) Company: E. I. du Pont de Nemours and Co.

Articles: Explosion bonded titanium clad plate and finished heat treated explosion bonded titanium clad plate.

Merchandise: Imported steel plates; and drawback unfinished heat treated explosion bonded titanium clad plate.

Factories: Coatesville and Dunbar, PA.

Statement signed: November 20, 1980.

Basis of claim: Used in.

Rate issued by Regional Commissioner of Customs: Chicago, May 20, 1981.

(K) Company: The Flexene Corp.

Articles: Uninked ribbons for various office machines.

Merchandise: Imported silk piece goods and typewriter ribbon cloth.

Factory: New York, NY.

Statement signed: January 21, 1981.

Basis of claim: Appearing in.

Rate issued by Regional Commissioner of Customs: New York, May 21, 1981.

(L) Company: International Flavors & Fragrances, Inc.

Articles: Fragrances and fragrance components and flavorings and flavoring components.

Merchandise: Imported fragrances and fragrance components and flavorings and flavoring components and organic chemicals used in the manufacture thereof.

Factories: Hazlet, Union Beach, and Teterboro, NJ.

Statement signed: February 12, 1981.

Basis of claim: Used in.

Rate issued by Regional Commissioner of Customs: New York, May 14, 1981.

(M) Company: Mark Levinson Audio Systems, Ltd.

Articles: Various preamplifiers, pre-preamplifiers, active crossovers, mono preamplifiers, power supplies, power amplifiers and inter-connecting cables.

Merchandise: Various imported shorting plugs, camac female chassis-connectors, female chassis power supply connectors, male power supply connectors, and silver and hook-up wire.

Factory: Hamden, CT.

Statement signed: April 2, 1980.

Basis of claim: Used in.

Rate issued by Regional Commissioner of Customs: New York, June 5, 1981.

(N) Company: Lightworks—Division of Light and Sound Specialities, Inc.

Articles: Tubelite, Litepanel and Crystawall.

Merchandise: Imported miniature lightbulbs.

Factory: Philadelphia, PA.

Statement signed: April 20, 1981.

Basis of claim: Used in.

Rate issued by Regional Commissioner of Customs: Baltimore, May 8, 1981.

(O) Company: Loré International (Disc.), Inc.

Articles: Silk wearing apparel.

Merchandise: Imported silk yardage, lace, and trimmings.

Factory: Los Angeles, CA.

Statement signed: May 18, 1981.

Basis of claim: Used in.

Rate issued by Regional Commissioner of Customs: Los Angeles, May 29, 1981.

Revokes: T.D. 80-296-0.

(P) Company: Mannesmann Tally Corp.

Articles: All models of T1000 printers: T1602, T1605, T1702, T1705, 1802, 1805; all models of T1612 printers: T1612 RO, T1612 KSR.

Merchandise: Imported Mannesmann Tally serial printer mechanisms.

Factory: Kent, WA.

Statement signed: April 28, 1981.

Basis of claim: Used in.

Rate issued by Regional Commissioner of Customs: San Francisco, June 8, 1981.

Revokes: T.D. 77-123-P to cover successorship from Tally Corp.

(Q) Company: Moulinex Manufacturing, Inc.

Articles: Food processors, vegetable chef attachment and blender attachment.

Merchandise: Imported component parts.

Factory: Virginia Beach, VA.

Statement signed: April 23, 1981.

Basis of claim: Used in.

Rate issued by Regional Commissioner of Customs: Baltimore, May 7, 1981.

(R) Company: Nicolet Magnetic Corp.

Articles: Fourier Transform Nuclear Resonance Spectrometer systems.

Merchandise: Imported nuclear magnetic resonance superconducting magnetics.

Factory: Mountain View, CA.

Statement signed: May 8, 1981.

Basis of claim: Appearing in.

Rate issued by Regional Commissioner of Customs: San Francisco, May 26, 1981.

(S) Company: Plantronics, Inc.

Articles: Lightweight headsets and tele-communications equipment.

Merchandise: Imported electronic sub-assemblies, stuffed and soldered printed circuit boards, transducer capsule assemblies, head-set cord assemblies, and numerous miscellaneous components.

Factory: Santa Cruz, CA.

Statement signed: April 29, 1981.

Basis of claim: Appearing in.

Rate issued by Regional Commissioner of Customs: San Francisco, May 18, 1981.

(T) Company: RCA Corp.

Articles: Color television receivers.

Merchandise: Imported color television chassis.

Factory: Bloomington, IN.

Statement signed: April 24, 1981.

Basis of claim: Appearing in.

Rate issued by Regional Commissioner of Customs: Chicago, May 13, 1981.

(U) Company: Remex Division, Ex-Cell-O Corp.

Articles: Computer peripheral equipment; floppy disc drives.

Merchandise: Imported magnetic recording heads, fraction horsepower motors, and electronic assemblies.

Factory: Irvine, CA.

Statement signed: April 24, 1981.

Basis of claim: Appearing in.

Rate issued by Regional Commissioner of Customs: Los Angeles, May 5, 1981.

(V) Company: Sherry Manufacturing Co., Inc.

Articles: Printed beach towels, shopping bags, ladies and men's apparel, children's bathing suits, and dish towels.

Merchandise: Imported unprinted beach towels, shopping bags, ladies and men's apparel, children's bathing suits, and dish towels.

Factory: Miami, FL.

Statement signed: April 13, 1981.

Basis of claim: Used in.



Rate issued by Regional Commissioner of Customs: Miami, June 11, 1981.

(W) Company: Shramm, Inc.

Articles: Shramm Rotadrills, hi-pressure auxilliary air compressors and portable air compressors.

Merchandise: Imported various size models GHH screw compressor ends.

Factory: West Chester, PA.

Statement signed: May 1, 1981.

Basis of claim: Used in.

Rate issued by Regional Commissioner of Customs: Baltimore, May 20, 1981.

(X) Company: Southern Saw Service, Inc.

Articles: Meat chopper knives, stainless butcher band saw blades, meat chopper plates.

Merchandise: Imported meat chopping machine parts.

Factory: Atlanta, GA.

Statement signed: March 5, 1981.

Basis of claim: Used in.

Rate issued by Regional Commissioner of Customs: Miami, May 8, 1981.

(Y) Company: Victor Business Products.

Articles: Calculators, cash registers, and sub-assemblies.

Merchandise: Imported incomplete calculators, cash registers, and components.

Factory: El Paso, TX.

Statement signed: April 7, 1981.

Basis of claim: Appearing in.

Rate issued by Regional Commissioner of Customs: Houston, May 6, 1981.

(Z) Company: Wean United, Inc.

Articles: Hot strip mill assemblies.

Merchandise: Imported housing, F-1 drive and pinion stand parts, and other component parts, all for hot strip mills.

Factory: Youngstown, OH.

Statement signed: May 6, 1981.

Basis of claim: Used in, less valuable waste.

Rate issued by Regional Commissioner of Customs: Chicago, May 18, 1981.

(T.D. 81-201)

## Cotton Textile Products—Restriction on Entry

Restrictions on entry of cotton textile products manufactured or produced in Singapore

There is published below a directive of April 17, 1981, received by the Commissioner of Customs from the Chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of cotton textile products in categories 347/348 manufactured or produced in Singapore. This directive amends, but does not cancel, that Committee's directive of December 16, 1980 (T.D. 81-67).

This directive was published in the Federal Register on April 22, 1981 (46 FR 22922), by the Committee.

(QUO-2-1)

Dated: July 23, 1981.

WILLIAM D. SLYNE,  
(For Richard R. Rosettie, Acting Director,  
Duty Assessment Division).

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U.S. DEPARTMENT OF COMMERCE,  
INTERNATIONAL TRADE ADMINISTRATION,  
Washington, D.C., April 17, 1981.

## Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,  
*Department of the Treasury,*  
*Washington, D.C.*

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive of December 16, 1980 from the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore.

Effective on April 23, 1981, the directive of December 16, 1980 is amended to increase the level of restraint established for Category 347/348 as follows:

Category	Amended 12-mo level of restraint <sup>1</sup>
347/348	465,991 dozen of which not more than 498,502 dozen shall be in Cat. 347 and not more than 225,013 dozen shall be in Cat. 348.

The actions taken with respect to the Government of the Republic of Singapore and with respect to imports of cotton textile products from Singapore have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

PAUL T. O'DAY,  
*Chairman, Committee for the  
Implementation of Textile Agreements.*

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(T.D. 81-202)

**Cotton Textile Products—Restriction on Entry**

Restriction on entry of cotton textile products manufactured or produced in  
Thailand

There is published below a directive of July 7, 1981, received by the Commissioner of Customs from the Chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of cotton textile products in category 320 manufactured or produced in Thailand. This directive amends, but does not cancel, that Committee's directive of December 19, 1980 (T.D. 81-131).

This directive was published in the Federal Register on July 10, 1981 (46 FR 35718), by the Committee.

(QUO-2-1)

Dated: July 23, 1981.

WILLIAM D. SLYNE,  
(For Richard R. Rosettie, Acting Director,  
Duty Assessment Division.)

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U.S. DEPARTMENT OF COMMERCE,  
INTERNATIONAL TRADE ADMINISTRATION,  
Washington, D.C., July 7, 1981.

**Committee for the Implementation of Textile Agreements**

COMMISSIONER OF CUSTOMS,  
*Department of the Treasury,*  
*Washington, D.C.*

DEAR MR. COMMISSIONER: This directive amends, but does not

cancel, the directive of December 19, 1980, from the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit entry during the twelve-month period which began on January 1, 1981 and extends through December 31, 1981 of cotton, wool and man-made fiber textile products in certain specified categories, produced or manufactured in Thailand, in excess of designated levels of restraint.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 4, 1978, as amended, between the Governments of the United States and Thailand; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on July 7, 1981 and for the twelve-month period beginning on January 1, 1981 and extending through December 31, 1981, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 320, produced or manufactured in Thailand, in excess of 16 million square yards.<sup>1</sup>

The action taken with respect to the Government of Thailand and with respect to imports of cotton textile products from Thailand has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

PAUL T. O'DAY,  
*Chairman, Committee for the  
Implementation of Textile Agreements.*

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(T.D. 81-203)

#### Bonds

Approval and discontinuance of carrier's bonds, Customs Form 3587

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol

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<sup>1</sup> The level of restraint has not been adjusted to reflect any imports after December 31, 1980.

"D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: July 27, 1981.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
A & H Express Lines (Canada), Ltd., 928 Marion St., St. Boniface, Manitoba, Canada; motor carrier; UnitedStates Fidelity & Guaranty Co. D 6/12/81	Mar. 28, 1961	May 1, 1961	Pembina, ND \$20,000
American Commercial Barge Line Co., Box 610, 1701 E. Market St., Jeffersonville, IN; water carrier; Federal Ins. Co. (PB 7/19/67) D 6/11/81	May 19, 1961	June 11, 1961	Cleveland, OH \$150,000
Badger Freightways, Inc., 2720 N. 19th St., Sheboygan, WI; motor carrier; Fidelity & Deposit Co. of MD D 8/19/81	Apr. 21, 1978	May 2, 1978	Milwaukee, WI \$25,000
Dist-Trans Multi Services, Inc. (See Tahwheelalen Express, Inc.)			
Dworkin, Inc., 5400 Harvard Ave., Cleveland, OH; motor carrier; St. Paul Fire & Marine Ins. Co. (PB 2/1/69) D 6/11/81	May 26, 1961	June 11, 1961	Cleveland, OH \$50,000
Eazor Express, Inc., and its wholly owned sub: Daniels Motor Freight, Inc., Eazor Square, Pittsburgh, PA; motor carrier; Seaboard Surety Co. D 7/13/81	Feb. 20, 1971	Mar. 29, 1971	Philadelphia, PA \$100,000
Express Transport Corp., P.O. Box 1, Crows Mill Rd., Keasbey, NJ; motor carrier; Liberty Mutual Ins. Co.	Apr. 30, 1961	June 2, 1961	Baltimore, MD \$25,000
First Freight Inc. (See Omega Air Cargo)			
Fuller Transportation, Inc., 1200 Shull St., W. Columbia, SC; motor carrier; Liberty Mutual Ins. Co. D 6/12/79	June 27, 1975	July 28, 1975	Charleston, SC \$25,000
Gilchrist Trucking Inc., 105 N. Keyser Ave., Old Forge, PA; motor carrier; Washington International Ins. Co.	Apr. 17, 1961	June 10, 1961	Philadelphia, PA \$50,000
Horizon Transport, Inc., P.O. Box 20648, Portland, OR; motor carrier; Safeco Ins. Co. of America	May 7, 1961	June 17, 1961	Portland, OR \$25,000
McCracken Motor Freight, Inc., 3641 N.W. St. Helens Rd., Portland, OR; motor carrier; Peerless Ins. Co. See footnotes at end of table.	Nov. 26, 1960	May 7, 1961	Portland, OR \$25,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Midwest Eastern Transport, Inc., P.O. Box 1614, Elkhart, IN; motor carrier; Ins. Co. of North America	Dec. 1, 1980	May 26, 1981	Chicago, IL \$25,000
Midwest Solvents Co., Inc., 1300 Main St., Box 309, Atchison, KS; motor carrier; The Travelers Indemnity Co.	Apr. 8, 1981	June 22, 1981	St. Louis, MO \$50,000
P.A. Milan, Inc., 392 Pearl St., Malden, MA; motor carrier; Liberty Mutual Ins. Co. (PB 10/22/71) D 5/3/81 <sup>1</sup>	May 1, 1981	May 7, 1981	Boston, MA \$25,000
Motor Freight Express Inc., Arsenal Rd. and Toronita St., York, PA; motor carrier; Ins. Co. of North America D 5/15/81	June 20, 1971	June 29, 1971	Baltimore, MD \$25,000
Motor Freight Express, Arsenal Rd. and Toronita, York, PA; motor carrier; St. Paul Fire & Marine Ins. Co.	May 19, 1981	May 20, 1981	Philadelphia, PA \$25,000
Mustang Distributing Co., Inc., 23505 N.E. Halsey, Troutdale, OR; motor carrier; American States Ins. Co. D 7/6/81	Mar. 18, 1980	Mar. 21, 1980	Portland, OR \$25,000
First Freight Inc., d.b.a. Omega Air Cargo, Bldg. "D" Airfreight Complex, P.O.B. 61193, Dallas/Fort Worth Airport, TX; motor carrier; Old Republic Ins. Co.	June 4, 1981	June 4, 1981	Dallas/Fort Worth, TX \$25,000
P & G Motor Freight, Inc., 450 Burnham St., S. Windsor, CT; motor carrier; St. Paul Fire & Marine Ins. Co. D 5/27/81	May 27, 1970	June 2, 1970	New York Seaport \$25,000
J.L. Rothrock, Inc., P.O. Box 1230, High Point, NC; motor carrier; Great American Ins. Co.	June 1, 1981	June 5, 1981	Wilmington, NC \$25,000
Service Refrigerated Transport, P.O. Box 2218, Hunter St., Freight Station, Newark, NJ; motor carrier; The American Ins. Co. D 6/8/81	June 1, 1975	Aug. 12, 1975	New York Seaport \$50,000
Dist-Trans Multi Services, Inc., d.b.a. Tahwhealalen Express, Inc., P.O. Box 7191, 1333 Nevada Blvd., Charlotte, NC; motor carrier; American Casualty Co. of Reading, PA (PB 8/13/80) D 6/15/81 <sup>2</sup>	June 3, 1981	June 16, 1981	Wilmington, NC \$25,000
Transport Champlain Express (International) Inc., Cowansville, Quebec, Canada; motor carrier; The Continental Ins. Co. (PB 7/18/79) D 6/15/81 <sup>3</sup>	June 15, 1981	June 15, 1981	St. Albans, VT \$25,000
Virginia Cartage Corporation, 2349 Campostella Rd., Chesapeake, VA; motor carrier; Fidelity & Deposit Co. of MD. D 6/1/81	Sept. 1, 1971	Oct. 29, 1971	Norfolk, VA \$25,000

See footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Dovel Wade, d.b.a. Vol Air Freight, P.O. Box 4, Alcoa, TN; air carrier; Nationwide Mutual Ins. Co.	Jan. 9, 1981	Apr. 24, 1981	New Orleans, LA \$25,000

<sup>1</sup> Surety is Peerless Ins. Co.

<sup>2</sup> Principal is Dist-Trans Multi Services, Inc.

<sup>3</sup> Principal is Transport Champlain Express (International) Inc./Champlain Express Transport (International) Inc.; Surety is Transamerica Ins. Co.

BON-3-03

MARILYN G. MORRISON,  
*Director,*  
*Carriers, Drawback and Bonds Division.*

T.D. 81-204

#### Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to Section 522(C), Tariff Act of 1930, as amended (31 USC 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Thailand baht (tical)

July 16, 1981 ..... \$0. 043383

July 17, 1981 ..... . 043384

(LIQ-03-01 O:C:E)

Dated: July 17, 1981.

KENNETH A. RICH,  
*Acting Chief.*

(T.D. 81-205)

#### Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified

buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:

July 1-2, 1981 .....	\$0. 000225
July 3-9, 1981 .....	. 000220
July 10-16, 1981 .....	. 000216
July 17, 1981 .....	. 000214

Chile peso:

July 1-17, 1981 .....	\$0. 025667
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Colombia peso:

July 1-2, 1981 .....	\$0. 018491
July 3-9, 1981 .....	. 018454
July 10, 1981 .....	. 018402
July 13-15, 1981 .....	. 018403
July 16, 1981 .....	. 018402
July 17, 1981 .....	. 018403

Greece drachma:

July 1, 1981 .....	\$0. 017007
July 2, 1981 .....	. 016935
July 3, 1981 .....	. 016949
July 6, 1981 .....	. 016694
July 7, 1981 .....	. 016736
July 8, 1981 .....	. 016584
July 9, 1981 .....	. 016639
July 10, 1981 .....	. 016736
July 13, 1981 .....	. 016906
July 14, 1981 .....	. 016708
July 15, 1981 .....	. 016849
July 16, 1981 .....	. 016949
July 17, 1981 .....	. 016683

Indonesia rupiah:

July 1-2, 1981 .....	\$0. 001585
July 3, 1981 .....	. 001667
July 6-9, 1981 .....	. 001585
July 10, 1981 .....	. 001584
July 13-15, 1981 .....	. 001585
July 16, 1981 .....	. 001584
July 17, 1981 .....	. 001585

Israel shekel:

July 1, 1981 .....	\$0. 085690
July 2-7, 1981 .....	. 084818



July 8-13, 1981.....	.081967
July 14-15, 1981.....	.082645
July 16, 1981.....	.082644
July 17, 1981.....	.082645

## Peru sol:

July 1-2, 1981.....	\$0.002404
July 3, 1981.....	.002439
July 6-9, 1981.....	.002398
July 10-16, 1981.....	.002392
July 17, 1981.....	.002370

## South Korea won:

July 1, 1981.....	\$0.001464
July 2-6, 1981.....	.001458
July 7-17, 1981.....	.001456

(LIQ-03-01 O:C:E)

Dated: July 17, 1981.

KENNETH A. RICH,  
*Acting Chief.*

# U.S. Customs Service

## *Recent Unpublished Customs Service Decisions*

The following listing of recent administrative decisions issued by the Office of Regulations and Rulings, U.S. Customs Service, and not otherwise published, is published for the information of Customs officers and the importing community. Although the decisions are not of sufficient general interest to warrant publication as Treasury Decisions, the listing describes the issues involved and is intended to aid Customs officers and concerned members of the public in identifying matters of interest which recently have been considered by the Office of Regulations and Rulings.

A copy of any decision included in this listing, identified by its date and file number, may be obtained in a form appropriate for public distribution upon written request to the Office of Regulations and Rulings, Attention: Legal Retrieval and Dissemination Branch, Room 2404, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229. These copies will be made available at a cost to the requester of \$0.10 per page. However, the Customs Service will waive this charge if the total number of pages copied is ten or less.

Decisions listed in earlier issues of the Customs Bulletin, through February 2, 1981, are available in microfiche format at a cost of \$30.90 (\$0.15 per sheet of fiche). It is anticipated that additions to the microfiche will be made quarterly and subscriptions are available. Requests for the microfiche now available and for subscriptions should be directed to the Legal Retrieval and Dissemination Branch. Subscribers will automatically receive updates as they are issued and will be billed accordingly.

Dated: July 28, 1981.

MARVIN M. AMERNICK,  
*Acting Director,*  
*Regulations Control and Disclosure Law Division.*

Date of decision	Control No.	Issue
6-26-81	105116/ 105142	Vessels: whether a vessel in one area of a consolidated port may obtain clearance at another area in the consolidated port
6-24-81	105200	Vessels: pending amendment of section 4.22, CR, to add Dominica to the list of nations whose vessels are exempt from the payment of special tonnage tax and light money
6-16-81	542498	Trade Agreements Act: whether certain engineering costs used to establish specifications and prepare detailed drawings are dutiable assists under the TAA
7- 7-81	062814	Classification: Screw hook and a bolt hook (646.72, 646.54, 923.51)
6-18-81	064624	Classification: IA 122/79 reconsidered and affirmed to hold that certain scalloped edging used to finish raw edges of a sweater does constitute ornamentation
6-16-81	065118	Classification: 26 BW Medium semi-chemical corrugating medium (252.90)
6-22-81	065489	Classification: amphibious vehicle designed to tow a barge on ice or water (692.35, 692.02, 683.39)
6-25-81	065610	Classification: hangers, springs, and brushings (652.84, 692.32, 692.32)
6-25-81	065618	Classification: stainless steel wire rod (606.90)
6-25-81	065644	Classification: rifle and syringe projectile (730.81, 774.55)
6- 5-81	065672	Classification: women's jeans with plastic belts (382.33, 772.30)
6-25-81	065752	Classification: hydraulic nut and accessories (660.85, 660.97, 657.25, 711.78, 772.65, 610.80, 610.30, 610.52)
6-22-81	065844	Classification: pressure sensitive tapes, semi-conducting tapes of woven fabric, of man-made fibers (790.55, 355.65, 355.82, 309.35)
6-18-81	065977	Classification: electric typewriter (676.05)
6-16-81	066740	Classification: polypropylene fiber (445.52)
6-10-81	066973	Classification: metallic and plastic wires suitable for use in paper making machinery (642.25, 642.30)
6-25-81	068280	Classification: circular glass trays used in microwave ovens (684.28)
6-25-81	068358	Classification: ladies beachcomber (700.60)
6- 5-81	068363	American selling price: basis of valuation of ladies casual open toe shoes unit molded bottoms
6- 5-81	068377	Classification: women's blouses (682.04)
6- 5-81	068448	Classification: solar balloon (737.95)
6-18-81	068459	Classification: fiberglass woven roving reinforcement fabric consisting of a layer of woven man-made glass fibers bonded to a mat of chopped non-woven, man-made glass fiber strands (359.50)
6- 5-81	068489	Classification: men's casual shoe with rope foxing (700.60)

Date of decision	Control No.	Issue
6- 9-81	068491	Classification: ladies open toe, slingback, medium wedge casual shoe of plastic (700.60)
6-25-81	068566	Classification: acrylic hat that features braid between hat and pom-pom ornamentation (703.10)
6-22-81	068570	Classification: air bypass valve (680.27)
7- 7-81	068729	Classification: screw hooks, bolt hooks (646.72, 646.54)

# United States Court of International Trade

One Federal Plaza  
New York, N.Y. 10007  
*Chief Judge*

Edward D. Re

## *Judges*

Paul P. Rao  
Morgan Ford  
Scovel Richardson  
Frederick Landis

James L. Watson  
Herbert N. Maletz  
Bernard Newman  
Nils A. Boe

## *Senior Judge*

Samuel M. Rosenstein

## *Clerk*

Joseph E. Lombardi

# Decisions of the United States Court of International Trade

(Slip Op. 81-64)

BRANIFF AIRWAYS, INC., PLAINTIFF *v.* THE UNITED STATES,  
DEFENDANT

Court No. 75-3-00646

## WARRANTY OBLIGATIONS

In the absence of evidence provided by the plaintiff relating to expenditures which may have been made by the manufacturer-seller pursuant to its warranty obligations contained in a purchase agreement to rectify defects occurring in the manufacture of aircraft purchased by plaintiff, the sum attributed to the cost of such

warranty by the Customs Service as a part of the constructed value of the aircraft must be deemed "profit."

[Judgment for defendant.]

(Decided July 14, 1981)

*Arnold & Porter* (Kenneth A. Letzler at the trial; Paul S. Berger with him on the briefs) for the plaintiff.

*Stuart E. Schiffer*, Acting Assistant Attorney General; *Joseph I. Lieberman*, Attorney in Charge, International Trade Field Office, Commercial Litigation Branch (*Saul Davis* at the trial and on the brief), for the defendant.

**BOE, Judge:** Subsequent to the entry of a prior order of this court in the above-entitled action denying a motion to grant judgment on the pleadings and on an accompanying stipulation of facts, the parties again have submitted the within action for determination and judgment predicated upon the prior proceedings before this court, Plaintiff's Exhibit 1, and a further stipulation executed by the parties hereto under date of March 26, 1981, Plaintiff's Exhibit 2.<sup>1</sup>

From the pleadings, the stipulations between the parties and the affidavits submitted by the plaintiff, Exhibits 3 and 4, the following facts are deemed germane to a determination of the issue presented and sufficient to permit an adjudication thereof.

The subject merchandise consists of 13 BAC One-Eleven Jet Passenger Aircraft manufactured by the British Air Corporation (hereinafter referred to as BAC) in the United Kingdom, imported therefrom by the plaintiff and entered at the port of Newark, New Jersey between March 1965 and January 1966. In the purchase agreement entered into between the plaintiff and BAC, it was agreed that 10 percent of the total purchase price for each aircraft represented the cost of the "services," "warranties," "taxes," "liabilities" and "indemnities" furnished by the seller to the buyer as well as the amount of the agency commissions payable by BAC in connection with the sale of the aircraft to the plaintiff. Plaintiff's Exhibit 1 (Exhibit A, Article III). Included in the appraised value of each aircraft, set forth with particularity in plaintiff's complaint, is the sum of \$57,115 attributable to the cost of warranties relating to the correction and rectification of defects in the aircraft by BAC pursuant to the specific provisions of the purchase agreement. The correction of the defects to be performed by BAC within a defined period of time might be made in the United Kingdom as well as in the United States depending upon circumstances and the options specified in the purchase agreement.<sup>2</sup> The warranty provisions con-

<sup>1</sup> The order denying judgment on the pleadings and an accompanying stipulation of facts was denied by this court under date of November 14, 1979 on the grounds that a genuine issue of material facts remained in connection with the review of the appraised constructed value of the merchandise in question. An order denying a motion for rehearing by the defendant was entered on January 17, 1980.

<sup>2</sup> Plaintiff's Exhibit 1 (Exhibit A, Article VI, Sections 6.01, 6.02 and 6.03).

tained in the purchase agreement relating to the imported aircraft were negotiated at arms length between the parties possessing relatively equal bargaining power and economic strength.

From the further stipulation submitted by the parties in connection with the present proceeding, Plaintiff's Exhibit 2, it is established that:

1. At all relevant times, there were in the country of exportation no other producers of merchandise of the same general class or kind as that at issue in this case; \* \* \*

The parties are in agreement that the appraisement of the subject aircraft properly was made on the basis of constructed value pursuant to section 402(d), Tariff Act of 1930, as amended by the Customs Simplification Act of 1956 (19 U.S.C. 1401a(d)) providing:

(d) Constructed value.

For the purposes of this section, the constructed value of imported merchandise shall be the sum of—

- (1) the cost of materials (exclusive of any internal tax applicable in the country of exportation directly to such materials or their disposition, but remitted or refunded upon the exportation of the article in the production of which such materials are used) and of fabrication or other processing of any kind employed in producing such or similar merchandise, at a time preceding the date of exportation of the merchandise undergoing appraisement which would ordinarily permit the production of that particular merchandise in the ordinary course of business;

- (2) an amount for general expenses and profit equal to that usually reflected in sales of merchandise of the same general class or kind as the merchandise undergoing appraisement which are made by producers in the country of exportation, in the usual wholesale quantities and in the ordinary course of trade, for shipment to the United States; and

- (3) the cost of all containers and coverings of whatever nature, and all other expenses incidental to placing the merchandise undergoing appraisement in condition, packed ready for shipment to the United States.

It is undisputed that the sum of \$57,115 is the amount attributable to the cost of the warranties included in the appraised valuation of the subject aircraft by the Customs Service. Thus, the sole question to be determined herein is whether the said sum has properly been included in the appraised constructed value.

Counsel for the plaintiff, placing great reliance on the fact that the correction of any defects in the subject aircraft by BAC is (1) contingent in character and (2) may be physically performed in the United States after importation, contends that the warranty in essence is similar to a service contract and/or an insurance policy guaranteeing repair of the aircraft after importation into the United States. It, accordingly, follows, the plaintiff urges, that the warranty is not a

"general expense" in connection with the manufacture of the subject aircraft within the contemplation of the statute.

Although, for the reasons hereinafter stated, a determination as to whether a warranty of the character in issue is a "general expense" is unnecessary to the adjudication of the instant action, the court is reluctant to accept without comment the foregoing arguments urged by the plaintiff. The obligation of BAC as the manufacturer of the subject aircraft to correct and rectify the defects in the design and construction of each respective aircraft, as well as to replace the defective materials found to exist therein, became a binding obligation at the time the purchase agreement was executed with the plaintiff. It was an obligation *in praesenti* to rectify the defects which might be found to exist in the aircraft manufactured by BAC when such defects in design, materials or workmanship became evident within the periods of time specified in the purchase agreement. The warranty and the obligation created thereby became an integral part of each aircraft manufactured by BAC. It is difficult for the court not to view the warranty provisions as an inducement to effect the sale of the subject aircraft to the plaintiff. The respective warranty provisions, initially proposed by BAC and the plaintiff during the negotiations relating to the purchase agreement, would appear to evidence the significant part a warranty may play in consummating the transaction at a purchase price which the plaintiff as a buyer was willing to pay.

"General expenses and profit," as provided for in the statutory provision are neither related nor restricted solely to the manufacture of the merchandise in question. As the statute specifically mandates, the component which is a part of constructed value includes the "general expenses and profit" which have been incurred in the sale of the merchandise for shipment to the United States. *New York Credit Men's Adjustment Bureau, Inc. v. United States*, 64 Cust. Ct. 770, 314 F. Supp. 1246 (1970); *United States v. C. J. Tower & Sons of Buffalo, Inc.*, 60 CCPA 46, 470 F. 2d 1393 (1972).<sup>3</sup>

In light of the stipulation offered by the respective parties in the present proceedings, Exhibit 2, establishing that there are no producers of the same general class or kind as the subject aircraft from which the amount of general expenses and profit are usually reflected in the sales of such merchandise for shipment to the United States

<sup>3</sup> In the *Tower* decision our appellate court emphasized that in the statutory provisions for the determination of constructed value, Congress has specified that the amount for general expenses and profit shall be equal to the amount reflected in "sales of merchandise \* \* \* for shipment to the United States." Emphasis added." 60 CCPA at 52. Although impliedly recognizing warranty costs as expenses, the appellate court affirmed the determination of the trial court that the warranty costs had not been incurred by the manufacturing company (Studebaker of Canada) and, accordingly, the amount of such expenses were not properly a part of the cost of production.



can be ascertained, the actual general expense and profit of BAC necessarily are accepted. *United States v. Jovita Perez*, 36 CCPA 114, C.A.D. 407 (1949); *English Electric Export and Trading Co. v. United States*, 53 CCPA 84, C.A.D. 881 (1966).

From Plaintiff's Exhibits 3 and 4, consisting of affidavits relating to the customary accounting procedures used by BAC, it appears that at the time of export of each aircraft a reserve account for warranty expenses was established by making a charge against income. As stated in paragraph 11 of Plaintiff's Exhibit 3 and in paragraph 8 of Plaintiff's Exhibit 4, "[a]ctual warranty expenses were charged against the reserve as the expenses occurred after export." Thus, although the record provides the procedure by which accounting was conducted by BAC in connection with the manufacture and sale of the subject aircraft, it, however, remains silent with respect to the amount of the reserve charged against income as well as the specific and actual warranty expenses charged against the reserve.

If the sum of \$57,115 of the appraised valuation of each aircraft, attributed by the Customs Service to be the cost of warranties thereon to BAC, is not properly included as a "general expense" then such sum must remain as income and profit, derived from the purchase price paid by the plaintiff, until such time the plaintiff has established the amount of the expenditures made by BAC in the performance of its warranty obligations. As has been succinctly stated in the case of *United States v. Alfred Dunhill of London, Inc.*, 32 CCPA 187, C.A.D. 305 (1945), "profit is calculated on the difference between such expenses and receipts."

Although the result of the decision of our appellate court in the case of *English Electric Export and Trading Co. v. United States*, 53 CCPA 84, C.A.D. 881 (1966) was a reduction of the appraised constructed value of the subject merchandise therein, the reasoning of the appellate court in that decision is deemed applicable. In the *English Electric* case certain generators imported from England into the United States were tested after importation and found to be defective. A "credit for penalty" relating to the contract price for the generators had been accepted by the company because of a failure of the merchandise to meet temperature requirements specified in the contract. In holding that the penalty constituted a reduction in the profit of the manufacturer, our appellate court stated:

Since the appraisement here is on the basis of the profit item in the cost of production being the profit actually added, the penalty sum amounts to a reduction in the actual profit and should have been subtracted from the appraised value. The fact that the transaction involving the penalty occurred after

exportation presents no difficulty since it did occur in time for evidence regarding it to be submitted to the Trial Court. 53 CCPA at 89-90.

Unlike the proof provided in the *English Electric* case, the plaintiff in the instant action has neither provided the Customs Service nor this court any evidence relating to the expenditures which may have been made by BAC pursuant to its contractual obligations to correct and rectify defects occurring in the manufacture of the subject aircraft. The appraised valuation was made seven years after the importation of the aircraft in question. Ample opportunity has been afforded plaintiff, after the expiration of the warranty periods, to apprise the Customs Service of the expenses incurred by BAC or at the very least the defects discovered in each aircraft corrected BAC under the terms of the purchase agreement. In the absence of such profit this court can only deem the sum of \$57,115, to constitute "profit" and, accordingly, a part of the constructed value of the aircraft in question.

Upon the plaintiff rests the burden to prove the correct dutiable value of the subject aircraft. *A. N. Deringer, Inc. v. United States*, 53 CCPA 135, C.A.D. 890 (1966); *United States v. Cavalier Shipping Co.*, 56 CCPA 117, 412 F. 2d 245 (1969).

The plaintiff having failed in its burden to rebut the presumption of correctness attaching to the appraisal of the subject aircraft on the basis of constructed value, the appraised valuation as determined by the Customs Service is affirmed and the above-entitled action, accordingly, is hereby dismissed.

Let judgment be entered accordingly.

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(Slip Op. 81-65)

OLD REPUBLIC INSURANCE COMPANY AND PEERLESS INSURANCE COMPANY, PLAINTIFFS, *v.* WINSTON E. PITMAN, DISTRICT DIRECTOR OF CUSTOMS, MIAMI, FLORIDA; ROBERT N. BATTARD, REGIONAL COMMISSIONER OF CUSTOMS, MIAMI, FLORIDA; AND THE UNITED STATES CUSTOMS SERVICE, DEFENDANTS

Court No. 81-7-00891

*Temporary Restraining Order and Order To Show Cause Why a Preliminary Injunction Should Not Issue*

(July 16, 1981)

RICHARDSON, Judge: Upon reading and filing the verified complaint, the summons, and affidavits of counsel herein, together with Motion for Temporary Restraining Order and Preliminary Injunction against

the defendants, for the purpose of restraining them from refusing to honor the surety bonds issued by the plaintiffs in connection with entries of merchandise into the Miami Customs District; and said motions being supported by allegations contained in the Verified Complaint; together with plaintiff's written and oral statements and affidavits in support thereof the Court finds that in order to preserve the status quo of the parties the Court should issue a Temporary Restraining Order.

The rejection of plaintiffs surety bonds on entries filed in the District of Miami by the District Director, dated July 13, 1981, without prior notice and opportunity for hearing under 31 CFR 223.17 will cause immediate irreparable harm, injury, loss, and damage, in that it forces members of the importing public who are customers of plaintiffs to seek alternative sources for purposes of obtaining surety bonds on importations, with the possible permanent loss of such customers. Therefore, it is

ORDERED AND ADJUDGED that the above-named Defendants, together with their agents, servants, employees and representatives under the direct or indirect control of said Defendants, are hereby temporarily restrained and enjoined from:

1. Refusing to honor surety bonds issued by the plaintiffs, OLD REPUBLIC INSURANCE COMPANY and PEERLESS INSURANCE COMPANY, in conjunction with entries of merchandise into the United States through the Miami Customs District, or any other Customs District.
2. Engaging in any conduct that results in the surety bonds issued by the plaintiffs, OLD REPUBLIC INSURANCE COMPANY and PEERLESS INSURANCE COMPANY, being dishonored with regard to any entries of merchandise made into the United States through the Miami Customs District, or any other Customs District.
3. Revoking, withdrawing, or cancelling the status of OLD REPUBLIC INSURANCE COMPANY and PEERLESS INSURANCE COMPANY as sureties approved by the Secretary of Treasury to issue surety bonds with regard to entries of merchandise into the United States through the Miami Customs District, or any other Customs District.
4. Implementing any of their directives or policy statements that result in the surety bonds of OLD REPUBLIC INSURANCE COMPANY and PEERLESS INSURANCE COMPANY being dishonored with regard to the entry of merchandise into the United States through the Miami Customs District, or any other Customs District.
5. Failing to release any merchandise covered by said Customs Surety bonds for the sole reason that said merchandise is subject to such bonds.

The instant Temporary Restraining Order shall remain in full

force and effect until the hearing on the application for Preliminary Injunction herein.

The defendants are further ORDERED to Show Cause before the United States Court of International Trade, on Monday, the 27th day of July, 1981 at 10:30 o'clock a.m., why a Preliminary Injunction in this matter should not issue.

# Decisions of the United States Court of International Trade

## *Abstracts* *Abstracted Protest Decisions*

DEPARTMENT OF THE TREASURY, *July 21, 1981.*

The following abstracts of decisions of the United States Court of International Trade at New York are published for the information and guidance of officers of the customs and others concerned. Although the decision are not of sufficient general interest to print in full, the summary herein given will be of assistance to customs officials in easily locating cases and tracing important facts.

WILLIAM T. ARCHIE,  
*Acting Commissioner of Customs.*

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD		BASIS	ENTRY AND MERCHANDISE
					Par. or Item No. and Rate	Par. or Item No. and Rate		
P81/113	Landis, J. July 13, 1981	Benff Ltd.	90-11-00078	Item 382.81 25¢ per lb. +27.5%	Item 382.42 7.5%		Agreed statement of facts	New York Ladies skirts and pants
P81/114	Landis, J. July 13, 1981	Corning Glass Works et al.	90-1-00113, etc.	Item 710.90 25%	Item 712.49 10%		Agreed statement of facts	New York Time domain reflectom- eters.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED		HELD		BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate	Par. or Item No. and Rate	Par. or Item No. and Rate		
P81/115	Newman, J. July 13, 1981	A. N. Deringer, Inc., s/c Uniroyal, Inc.	78-1-00177	Item 657.20 9.5%	Item 772.55 4%			Uniroyal, Inc., c/o A. N. Deringer, Inc. (Abs. P80/59)	Champlain-Rousses Point (Ogdensburg) Rubber hose, pipe or tub- ing in various lengths with attached fittings
P81/116	Landis, J. July 14, 1981	Uniroyal, Inc.	80-6-00646	Item 680.12 5.5%	Item 680.11 Free of duty			Judgment on the pleadings	Bridgeport Footwear molds for use with Desma 714 machine
P81/117	Newman, J. July 14, 1981	A. N. Deringer, Inc., s/c Uniroyal, Inc.	78-1-00184	Item 657.20 9.5%	Item 772.55 4%			Uniroyal, Inc., c/o A. N. Deringer, Inc. v. U.S. (Abs. P80/59)	Champlain-Rousses Point (Ogdensburg) Rubber hose, pipe or tub- ing in various lengths with attached fittings
P81/118	Newman, J. July 14, 1981	A. N. Deringer, Inc., s/c Uniroyal, Inc.	78-5-00013, etc.	Item 657.20, 657.25 or 657.40 9.5%	Item 772.55 4%			Uniroyal, Inc., c/o A. N. Deringer, Inc. v. U.S. (Abs. P80/59)	Champlain-Rousses Point (Ogdensburg) Rubber hose, pipe or tubing in various lengths with attached fittings

P81/119	Ford, J. July 17, 1981	RMS Electronics, Inc.	77-11-0477- S	Item 682.05 12.6%	Item 682.07 6%	RMS Electronics, Inc. v. U.S. (C.D. 4818, aff'd C.A.D. 1240)	New York Baluns, impedance match- ing couplers, matching transformers, model No. CA-2500
P81/120	Richardson, J. July 17, 1981	Sortex Co. of North America, Inc.	75-5-01248, etc.	Item 712.49 12%, 11.5%, 11%, 10.5% or 10%	Item 666.25 11.5%, 10%, 9%, 8%, 6.5% or 5.5%	Sortex Company of North America, Inc. v. U.S. (C.D. 4746, aff'd C.A.D. 1221)	Boston; Detroit Electronic color sorting machines and parts
P81/121	Richardson, J. July 17, 1981	Sortex Co. of North America, Inc.	75-9-02486	Item 712.49 12%, 11.5%, 11%, 10.5% or 10%	Item 666.25 11.5%, 10%, 9%, 8%, 6.5% or 5.5%	Sortex Company of North America, Inc. v. U.S. (C.D. 4746, aff'd C.A.D. 1231)	Boston; Detroit Electronic color sorting machines and parts thereof
P81/122	Richardson, J. July 17, 1981	Sortex Co. of North America, Inc.	77-12-04796, etc.	Item 712.49 10%	Item 666.25 5.5%	Sortex Company of North America, Inc. v. U.S. (C.D. 4746, aff'd C.A.D. 1221)	Boston Electronic color sorting machines and parts thereof
P81/123	Newman, J. July 17, 1981	A. N. Deringer, Inc., a/c Unroyal, Inc.	78-1-00188	Item 657.20 9.5%	Item 772.65 4%	Unroyal, Inc., c/o A. N. Deringer, Inc. v. U.S. (Abs. P80/89)	Champlain-Rouses Point (Ogdensburg) Rubber hose, pipe or tubing in various lengths with attached metal fittings

# Decisions of the United States Court of International Trade

## Abstracts

### Abstracted Reappraisal Decisions

DECISION NUMBER	JUDGE AND DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS of statement of facts	PORT OF ENTRY AND MERCHANDISE
R81/266	Landis, J. July 13, 1981	Topp Electronics, Inc.	78-10-01795	Constructed value	Various values specified on entry papers by liquidating officer ex- cluding one-half of amount added for as- sists set forth in schedule of protests attached to decision and judgment	Agreed	Los Angeles Various articles
R81/267	Re, C.J. July 14, 1981	Regal Accessories, Inc.	78-12-02321	Export value	Appraised values shown on entry papers less additions included to reflect currency re- valuation	C.B.S. Imports Corp. v. U.S. (C.D. 473)	New York Wearing apparel, etc.
R81/268	Landis, J. July 14, 1981	Columbia House, a Division of CBS, Inc.	79-3-00430	Constructed value	Involved unit values, packed	Agreed	New York Duplicate film positives
R81/269	Landis, J. July 14, 1981	Kent International	80-7-01060	Export value	F.o.b. Prices set forth in invoices of Willing Industry Co., Ltd.	Agreed	Philadelphia Bicycles



## Judgment of the U.S. Court of International Trade in Appealed Case

July 13, 1981

Appeal 80-28.—THE FERRISWHEEL v. UNITED STATES.—SCOTTISH HIGHLAND JACKETS AND KILTS—GARMENTS (WOOL AND COTTON) WITH FRINGE, EPAULETS OR BRAID—MEN'S WEARING APPAREL, ORNAMENTED—MEN'S WEARING APPAREL, NOT ORNAMENTED—TSUS.—C.D. 4844 affirmed in part and reversed in part March 12, 1981 (C.A.D. 1260); ordered, adjudged, and decreed that the wool Argyll jackets are properly classifiable under item 380.02, TSUS, with duty at the rate of 42.5 percent ad valorem; that the cotton Sheriffmuir jackets are properly classifiable under item 380.00, TSUS, with duty at the rate of 35 percent ad valorem; that the wool men's kilts are properly classifiable under item 380.66, TSUS, with duty at the rate of 37.5¢ per lb., plus 21 percent ad valorem; and that the district director of customs at Washington, D.C. shall reliquidate the entries accordingly.

# International Trade Commission Notices

*Investigations by the U.S. International Trade Commission*

DEPARTMENT OF THE TREASURY, JULY 30, 1981

The appended notices relating to investigations by the U.S. International Trade Commission are published for the information of Customs officers and others concerned.

WILLIAM T. ARCHEY,  
*Acting Commissioner of Customs.*

In the Matter of  
CERTAIN ULTRAFILTRATION  
MEMBRANE SYSTEMS AND  
COMPONENTS THEREOF, INCLUDING  
ULTRAFILTRATION  
MEMBRANES

} Investigation No. 337-TA-107

## *Order No. 1*

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the Federal Register.

Issued: July 15, 1981.

DONALD K. DUVALL,  
*Chief Administrative Law Judge.*

(TA-131(b)-6)

Probable Economic Effects of Possible Tariff Reductions Under  
Section 124 of the Trade Act of 1974

AGENCY: United States International Trade Commission.

ACTION: In accordance with the provisions of section 131(b) of the Trade Act of 1974 (hereinafter referred to as "the Act"), the

Commission has instituted investigation No. TA-131(b)-6 for the purpose of obtaining, to the extent practicable, information of the kind described in section 131(d) of the Act. This information is for use in connection with the preparation of advice requested by the U.S. Trade Representative (USTR) on June 17, 1981 in accordance with section 131(a) of the Act with respect to articles classified in the following 6 items of the Tariff Schedules of the United States:

TSUS item	Brief description
147.64-----	Fresh grapes (except hothouse) entered July 1 to February 14, inclusive
642.30-----	Fourdrinier wires for papermaking machines
653.01 (pt.)---	Only tents and similar structures having an aluminum frame and a vinyl laminated polyester fabric shell or cover
685.7010-----	Indicator panels incorporating semiconducting luminescent devices (LED's)
685.80(pt.)----	Only fixed or variable electrical vacuum capacitors
687.3010-----	Light emitting diodes

For each of these articles the USTR requests the probable economic effects on U.S. industries producing like or directly competitive articles and on consumers of the reduction of United States duties by the maximum amount permissible under the residual tariff reduction authority granted to the President under section 124. The USTR published the list of articles in the July 7, 1981 Federal Register (46 F.R. 35234).

EFFECTIVE DATE: July 16, 1981.

FOR FURTHER INFORMATION CONTACT: (1) Agricultural products, Mr. Edward Furlow (202-724-0068); (2) Minerals and metals, Mr. Larry Brookhart (202-523-0275); (3) Machinery and equipment, Mr. Aaron Chesser (202-523-0353); Office of Industries, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436; (4) Legal aspects, Mr. William Gearhart, (202-523-0487), Office of General Counsel, at the same address.

#### SUPPLEMENTARY INFORMATION:

##### PUBLIC HEARING

A public hearing in connection with the investigation will be held in the Commission Hearing Room, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.d.t., on August 18, 1981. All

persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, not later than noon, August 11, 1981.

#### WRITTEN SUBMISSIONS

In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 C.F.R. 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons.

To be ensured of consideration by the Commission, written statements should be submitted at the earliest practicable date, but no later than August 31, 1981. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

By order of the Commission.

Issued: July 17, 1981.

KENNETH R. MASON,  
Secretary.

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(332-73)

#### *Notice of Release for Public Comment of Provisionally Adopted Chapters of the Harmonized Commodity Description and Coding System*

AGENCY: United States International Trade Commission.

ACTION: Release for public comment, pursuant to Commission investigation No. 332-73, under the authority of section 332(g) of the Tariff Act of 1930, as amended, of drafts of the following chapters of the Harmonized Commodity Description and Coding System (Harmonized System) as provisionally adopted by the Harmonized System Committee and the Nomenclature Committee of the Customs Cooperation Council.

Chapter 72: Iron and steel

Chapter 73: Articles of iron or steel

Chapter 83: Miscellaneous articles of base metal

**WRITTEN SUBMISSIONS:** Parties wishing to submit written comments should do so by August 15, 1981.

**HEARING:** Parties desiring the Commission to hold a hearing on these draft chapters of the Harmonized System should contact the Secretary of the Commission by July 31, 1981, and show good cause for holding a hearing.

**COPIES OF DOCUMENTS:** Copies of the chapters which are the subject of this notice are available for public inspection at the offices of the Commission, 701 E Street, NW., Washington, D.C. 20436. The Commission will also send copies to interested parties upon request.

**FOR FURTHER INFORMATION CONTACT:** Eugene A. Rosen-garden, Director, Office of Tariff Affairs, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, Telephone: 202/523-0370.

**SUPPLEMENTARY INFORMATION:** In its public notices of February 8, 1980 (45 F.R. 9828 of February 13, 1980), March 21, 1980 (45 F.R. 19696 of March 26, 1980), August 15, 1980 (45 F.R. 55549 of August 20, 1980) and June 24, 1981 (46 F.R. 34439 of July 1, 1981) the Commission identified 94 chapters of the Harmonized Commodity Description and Coding System (Harmonized System) for which texts had been provisionally adopted by the Harmonized System and Nomenclature Committees of the Customs Cooperation Council. The purpose of the above mentioned notices was to invite comments and views of interested parties with respect to the 94 chapters.

Since the release of the June 24, 1981 notice, provisionally adopted texts of three further chapters have been received from the Customs Cooperation Council. This notice hereby amends the previous notice by adding these three new chapter texts to the list of texts released for public comment.

This notice is being issued pursuant to Commission investigation No. 332-73, instituted on January 31, 1975 (40 F.R. 6329), under section 332(g) of the Tariff Act of 1930. The investigation was initiated in accordance with section 608(c) of the Trade Act of 1974, which provides, in part, that the Commission shall institute an investigation which would provide the basis for—

(2) full and immediate participation by the United States International Trade Commission in the United States contribution to technical work of the Harmonized Systems [sic] Committee under the Customs Cooperation Council to assure the recognition of the needs of the United States business community in the development of a Harmonized Code reflecting sound principles of commodity identification and specification and modern producing methods and trading practices \* \* \*.

The Harmonized System is being developed by the Customs Cooperation Council (CCC), a 91-member international organization with headquarters in Brussels, as an international commodity classification system which will be adaptable for modernized customs tariff nomenclature purposes and for recording, handling, and reporting of transactions in international trade. The Harmonized System will be based on, and in many respects will be an extension of, the Customs Cooperation Council Nomenclature (CCCN), formerly known as the Brussels Tariff Nomenclature (BTN).

The Technical Team, working under auspices of the CCC, prepared drafts of the various chapters of the Harmonized System for consideration by the Harmonized System Committee, which was established in order to develop the system. These drafts were forwarded to the members and observers of the Committee for their review and submission of written comments. The Committee met three times a year to consider these drafts and the written comments and presentations of the various delegations. The review of a particular chapter or group of chapters often extended to more than one meeting.

In its public notices of May 4, 1976 (41 F.R. 18716 of May 6, 1976), August 9, 1976 (41 F.R. 34370 of August 13, 1976), December 20, 1976 (41 F.R. 55948 of December 23, 1976), September 1, 1977 (42 F.R. 44852 of September 7, 1977), February 7, 1978 (43 F.R. 5902 of February 10, 1978), October 16, 1978 (43 F.R. 48723 of October 19, 1978), February 14, 1979 (44 F.R. 10435 of February 20, 1979), May 16, 1979 (F.R. 29740 of May 22, 1979), September 5, 1979 (44 F.R. 53112 of September 12, 1979), January 28, 1980 (45 F.R. 7648 of February 4, 1980), February 1, 1980 (45 F.R. 8168 of February 6, 1980), May 20, 1980 (45 F.R. 36231 of May 29, 1980), May 23, 1980 (45 F.R. 36230 of May 29, 1980) and August 20, 1980 (45 F.R. 57228 of August 27, 1980) the Commission identified those chapters which had been considered by the Harmonized System Committee, and the chapters for which a Technical Team draft had been released.

Following its deliberations on the draft chapters, the Harmonized System Committee forwarded recommended texts for the chapters to the Nomenclature Committee. The Nomenclature Committee, which supervises the operations of the Convention on Nomenclature for the Classification of Goods in Customs Tariffs and is responsible for ensuring international uniformity in the interpretation and application of the CCCN, reviews the recommended texts for the Harmonized System and returns the draft chapters which it has approved to the Harmonized System Committee. The draft chapters which have thusly been provisionally approved by both committees are then held in

abeyance pending final revision sessions. The Harmonized System Committee began final revision sessions in May 1981.

The draft chapters released for public comment today have been provisionally adopted by the Harmonized System Committee and the Nomenclature Committee according to the above described procedure and are on the Harmonized System Committee's agenda for the October 1981 revision session. As further chapters are adopted, the Commission will issue future notices requesting public comment.

In 1971, the Department of the Treasury established an Inter-agency Advisory Committee on Customs Cooperation Council Matters in order to provide a basis for interested Federal agencies to participate with respect to CCC matters. In order to establish and develop U.S. programs and policies with respect to the Harmonized System, the interagency committee has instituted procedures which take into account the provisions of section 608(c) of the Trade Act of 1974, which call for the Commission to contribute to the U.S. technical input to the Harmonized System Committee. Under these procedures the Commission is preparing technical comments and proposals on the various chapters of the Harmonized System for consideration by the interagency committee in the determination of U.S. proposals with respect to the Harmonized System. In making proposals, the Commission is seeking and taking into consideration the views of trade and industry and other interested parties and of interested Government agencies.

By order of the Commission.

Issued: July 17, 1981.

KENNETH R. MASON,  
*Secretary.*

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Investigation No. TA-203-12

CLOTHESPINS

*Notice of Investigation and Hearing*

AGENCY: United States International Trade Commission.

ACTION: Upon its own motion and on the basis of a petition filed on July 10, 1981, on behalf of Diamond International Corporation, Forster Manufacturing Company, National Clothespin Company and Penley Corporation, the Commission of July 20, 1981, instituted investigation No. TA-203-12 under section 203(i)(2) and 203(i)(3) of the Trade Act of 1974 (19 U.S.C. 2253 (i)(2) and (i)(3)) for the purpose of gathering information in order that it might advise the President of its judgment as to the probable economic effect on the



industry concerned of the extension, reduction, or termination of import relief presently in effect with respect to clothespins, spring type, of wood or plastics valued not over \$1.70 per gross, provided for in item 790.05 of the Tariff Schedules of the United States (TSUS). Relief in the form of quantitative restrictions described in items 925.11, 925.12, and 925.13 of the Appendix to the TSUS is provided for in Presidential Proclamation 4640 (issued February 23, 1979). Import relief presently in effect with respect to such merchandise is scheduled to terminate at the close of business on February 22, 1982, unless extended by the President.

**EFFECTIVE DATE:** July 20, 1981.

**FURTHER INFORMATION CONTACT:** John MacHatton, Supervisory Investigator, telephone 202-523-0439 or Bill Schechter, Investigator, telephone 202-523-0300, U.S. International Trade Commission, 701 E Street NW., Room 341, Washington, D.C. 20436.

**SUPPLEMENTARY INFORMATION:**

*Public hearing ordered.* A public hearing in connection with this investigation will be held in Portland, Maine, at 10 a.m., e.d.t., on Monday, October 5, 1981, in the Holiday Inn West, 81 Riverside Street, Portland, Maine 04104. Requests for appearances at the hearing should be received in writing by the Secretary to the Commission at his office in Washington no later than the close of business on Monday, September 21, 1981.

*Prehearing procedure.* To facilitate the hearing process, it is requested that persons wishing to appear at the hearing submit prehearing briefs enumerating and discussing the issues which they wish to raise at the hearing. Nineteen copies of such prehearing briefs should be submitted to the Secretary to the Commission no later than the close of business on Monday, September 28, 1981. Copies of prehearing briefs submitted will be made available for public inspection in the Office of the Secretary. While submission of prehearing briefs does not prohibit submission of prepared statements in accordance with section 201.12(d) of the Commission's *Rules of Practice and Procedure* (19 CFR 201.12(d)), it would be unnecessary to submit such a statement if a prehearing brief is submitted instead. Oral presentations should, to the extent possible, be limited to issues raised in the prehearing briefs.

A prehearing conference will be held on Tuesday, September 22, 1981, at 10:00 a.m., e.d.t., in Room 117 of the U.S. International Trade Commission Building.

Persons not represented by counsel or public officials who have relevant matters to present may give testimony without regard to the suggested prehearing procedures outlined above.



*Inspection of petition.* The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

By order of the Commission.

Issued: July 21, 1981.

KENNETH R. MASON,  
*Secretary.*

In the Matter of CERTAIN WET MOTOR CIRCULATING PUMPS AND COMPONENTS THEREOF	} Investigation No. 337-TA-94
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*Notice of Commission Request for Comments Regarding Settlement Agreement*

AGENCY: U.S. International Trade Commission.

ACTION: Request for public comment on proposed termination of investigation based on settlement agreement.

SUMMARY: The settlement agreement would result in the complete termination of this investigation. This notice requests comments from the public on the proposed settlement agreement within thirty (30) days of publication of this notice in the Federal Register.

DATES: Comments will be considered if received within 30 days of publication of this notice. Comments should conform with section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR, §201.8), and should be addressed to Kenneth R. Mason, Secretary U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION: Complainant, Taco, Inc., and respondents, Grundfos A.S., Grundfos Pumps, Inc., and Curtis V. Givan, and the Commission Investigative Attorney have moved jointly for termination of this investigation on the basis of a settlement agreement. On June 30, 1981, the presiding officer recommended that the joint motion be granted.

Notice of the institution of the investigation was published in the Federal Register of December 31, 1980 (45 F.R. 86564).

SETTLEMENT AGREEMENT: The settlement agreement, with confidential business information deleted, provides as follows:

*This Agreement entered into this 5th day of June in Zurich, Switzerland, among Taco, Inc., Grundfos Pumps, Inc., Grundfos A/S, Grundfos International A/S, Grundfos Holding A.G., and Curtis V. Givan.*

*Whereas*, the parties desire to settle their differences.  
It Is Hereby Agreed:

1. The parties named above hereby release all other parties from any and all claims that may have accrued heretofore or that may presently exist, including but not limited to:

(a) Civil Action No. 81-0286 pending in the United States District Court for the District of Rhode Island.

(b) Civil Action No. C81-1257 pending in United States District Court for the Northern District of California.

(c) Investigation No. 337-TA-94 pending in United States International Trade Commission.

2. The parties shall file stipulations of dismissal in each of the above identified actions and shall take any other action necessary to accomplish the dismissal of such actions.

3. Taco, Inc., agrees not to bring suit against the Grundfos companies named above, as well as their subsidiaries and affiliates, based on United States patent No. 3,264,653 or its foreign equivalent patents, and agrees not to assert, or otherwise contend hereafter that any Grundfos pump is or was an infringement of the United States or foreign patent.

4. The Grundfos companies named above shall pay to Taco Inc. \* \* \* within 30 days of the date of signing of this agreement. In making this judgment, Grundfos does not concede that it has committed any of the acts complained of in the above identified litigation, nor does Grundfos concede that the 3,264,653 patent is valid.

5. In the event any party chooses to make a press release or any other form of public statement, such release or statement shall state that they "have resolved their differences" and no other information concerning the settlement will be disclosed in public or in private except as lawfully required, especially for commercial purposes.

**WRITTEN COMMENTS REQUESTED:** In order to discharge its statutory obligation to consider the public interest, the Commission seeks written comments from interested persons regarding the effects of terminating this investigation on the basis of the settlement agreement on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers. All written comments must be filed with the Secretary to the Commission no later than 30 days after publication of this notice in the Federal Register. In addition, pursuant to 19 CFR §210.14(a)(2), the Commission has requested comments from the Department of

Health and Human Services, the Department of Justice, the Federal Trade Commission, and the U.S. Customs Service.

**ADDITIONAL INFORMATION:** The original and 19 copies of all written submissions must be filed with the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, telephone (202) 523-0161. All comments must be filed no later than 30 days after publication of this notice in the Federal Register. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request *in camera* treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons the Commission should grant such treatment. The Commission will either accept the submission in confidence or return it. All nonconfidential written submissions will be available for public inspection at the Secretary's office.

**FOR FURTHER INFORMATION CONTACT:** William E. Perry, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone (202) 523-1693.

By order of the Commission.

Issued: July 21, 1981.

KENNETH R. MASON,  
Secretary.

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(332-129)

*Monthly Report Providing Information on the U.S. Auto Industry*  
AGENCY: United States International Trade Commission.

**ACTION:** At the request of the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, and in accordance with the provisions of section 322(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1332(b)), the Commission has instituted investigation No. 332-129, for the purpose of providing monthly data on the U.S. automobile industry through December 1981. The monthly reports will include data on automobile production, imports, exports, inventories, retail sales, price adjustments, and employment. The report will also include retail prices of selected comparable Japanese and U.S. produced automobiles on a monthly basis.

The reports issued under this investigation will be similar in scope to those issued under recently completed investigation No. 332-121, of like title. Notice of that investigation was published in the Federal Register of January 7, 1981 (46 F.R. 1849).

**EFFECTIVE DATE:** July 20, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. James McElroy or Mr. Charles West, Machinery and Equipment Division, Office of Industries, U.S. International Trade Commission, Washington, D.C. 20436 (Telephone 202-523-0258, 202-523-0299, respectively).

By order of the Commission.

Issued: July 22, 1981.

KENNETH R. MASON,  
*Secretary.*

In the Matter of CERTAIN UNIVERSAL JOINT KITS, COMPONENTS THEREOF, AND TRUNNION SEALS THEREWITH	}	Investigation No. 337-TA-93
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*Notice of Proposed Settlement Agreement and Request for Public Comments*

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the presiding officer in the above-captioned investigation has certified to the Commission for action a joint motion to terminate the investigation, along with a proposed settlement agreement executed by the complainant and the respondents. Before taking final action on the proposed settlement, the Commission requests that interested members of the public submit written comments thereon.

**SUPPLEMENTARY INFORMATION:**

*Background.* On May 26, 1981, the complainant, GMB Universal Joints Inc., GMB Universal Joints (West) Inc., and Naniwa Seimitsu Industry Co., Ltd., and the Commission investigative attorney jointly moved, pursuant to rule 201.51(a) of the Commission's Rules of Practice and Procedure (19 CFR § 210.51(a)), to terminate the investigation. The joint motion to terminate is based on a voluntary settlement agreement, executed by all the parties, which is alleged to resolve the various issues in this investigation.

On June 8, 1981, the presiding officer filed a recommended determination in which he recommended that Motion No. 93-7 be granted. The judge noted that there are no agreements or understandings between the parties other than those embodied in the proposed settlement agreements and that it does not appear from the face of the agreement that the public interest will be harmed by the settlement.

The proposed settlement agreement is appended to this notice.

*Submission of Comments.* All comments should be addressed to

the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and must reference investigation No. 337-TA-93. Comments must be received not later than 30 days after the date of publication of this notice in the Federal Register.

**FOR FURTHER INFORMATION CONTACT:** Jack Simmons, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 523-0350.

By order of the Commission.

Issued: July 22, 1981.

KENNETH R. MASON,  
*Secretary.*

#### SETTLEMENT AGREEMENT

*Whereas*, Dana Corporation, a Virginia corporation, the principal office of which is in Toledo, Ohio ("Dana"), filed a Complaint with the International Trade Commission ("ITC") on September 15, 1980 ("Complaint"), and amended such Complaint on November 17, 1980 and sought among other relief the exclusion from the United States of universal joint kits manufactured by Naniwa Seimitsu Industry Co., LTD., a Japanese enterprise, the principal office of which is in Osaka, Japan ("Naniwa"), and imported into the United States by GMB Universal Joints, Inc., a New Jersey corporation, the principal office of which is in Avenel, New Jersey ("GMB East"), and GMB Universal Joints (West) INC., a California corporation, the principal office of which is in El Segundo, California ("GMB west"); and

*Whereas*, immediately after the execution of this Agreement, Dana and Naniwa, GMB East and GMB West intend to make a Joint Motion with the ITC Investigative Attorney, David J. Dir, Esq., to terminate ITC Investigation No. 337-TA-93 ("Investigation") which was commenced in response to the Complaint, as amended;

*Now, Therefore*, in consideration of and in exchange for their respective agreements contained herein, Dana and Naniwa, GMB East and GMB West, hereby agree as follows:

1. Naniwa, GMB East and GMB West (hereinafter collectively "Naniwa and Affiliates") acknowledge that the universal joint trunnion seals referred to in the Complaint, as amended, and described in Exhibit A attached hereto ("Model No. 1 Seals") are covered by the claims of United States Patent No. 3,479,840 ("Dana's Patent").

2. After September 1, 1981, Naniwa and Affiliates will not import into the United States universal joints containing either Model No. 1 Seals (as described in Exhibit A attached hereto) or trunnion seals manufactured in accordance with the design attached as Exhibit B hereto ("Model No. 2 Seals") until Dana's Patent either expires or is

finally declared to be invalid or unenforceable by a Court of competent jurisdiction from which no appeal has been taken; provided, however, that if Naniwa and Affiliates have made reasonable efforts to manufacture (or have manufactured) trunnion seals according to the design attached as Exhibit C hereto ("Model No. 3 Seals") for commercial production and export to the United States, and commercial production and export to the United States are not yet commercially feasible, Naniwa and Affiliates may ask Dana to extend such September 1, 1981 deadline for an additional reasonable period, and Dana's consent to such request shall not be unreasonably withheld.

3. Dana will not instigate any proceeding with the ITC or bring any action in any forum based on or arising out of any one or more claim(s) of Dana's patent against Naniwa, GMB East and/or GMB West or any of their suppliers or customers either for manufacture, use or sale of Model No. 1 or Model No. 2 Seals imported into the United States on or before September 1, 1981 or such later deadline as Dana shall consent to in accordance with Paragraph 2 above, or for manufacture, use or sale of Model No. 3 Seals imported into the United States at any time.

4. GMB East and GMB West are currently reviewing the trade nomenclature for their products for unrelated business reasons and may (or may not) change such nomenclature in the future.

5. Immediately following the execution of this Agreement, Dana and Naniwa, GMB East and GMB West shall jointly make a Motion, together with the ITC Investigative Attorney, to terminate the Investigation ("Motion"), including all matters alleged in the Complaint, as amended, and in the Response thereto.

6. This Settlement Agreement is the only agreement between Dana and Naniwa, GMB East and GMB West relating to the Investigation, and there are no other agreements or understandings between the parties in connection with the Investigation.

7. The consideration received by Dana and Naniwa, GMB East and GMB West pursuant to this agreement in the form of their respective agreements contained herein (including this reciprocal general release) shall constitute full payment, satisfaction, discharge, compromise and release by Dana to Naniwa and Affiliates individually and collectively and by Naniwa and Affiliates individually and collectively to Dana of any and all claims, demands, damages, attorneys' fees, costs, expenses, sums of money, actions, causes of action (both at law and in equity, including but not limited to any or all causes of action arising under 35 U.S.C. §§ 271 and 282 and under 19 U.S.C. § 1337), obligations or liabilities of every kind or nature whatsoever, wherever arising, whether known or unknown, which exist or existed on or prior to the Effective Date (as herein-

after defined) of this agreement which Dana and Naniwa and Affiliates, their officers, directors, employees, agents, representatives, successors and assigns have ever had, now have or shall have (or have claimed, now claim or shall claim to have) on or before the Effective Date against each other (in the case of Naniwa and Affiliates either individually or collectively) and/or any of each others' officers, directors, employees, agents, representatives, successors or assigns (in the case of Naniwa and Affiliates either individually or collectively).

Dana and Naniwa and Affiliates (individually and collectively) are not relying and have not relied on any representation or statement made by each other either with respect to the facts involved in the controversy being settled hereby ("Controversy") or with respect to their rights or asserted rights. Each party assumes the risk of any mistakes of fact in connection with the true facts involved in the Controversy, and any facts which are now unknown to them relating thereto. Each party expressly waives all rights under any possibly applicable statute or regulation which might limit the scope of this general release, including § 1542 of the *California Civil Code* which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

8. This Agreement shall become effective on the date the ITC formally terminates the Investigation in response to the Motion ("Effective Date").

*In Witness Whereof* duly authorized officers or representatives of the parties have executed this Agreement.

DANA CORPORATION,  
RAYMOND J. PEAT,  
*Vice President Sales.*

NANIWA SEIMITSU INDUSTRY Co.,  
LTD.,  
NICK MATSUOKA,  
*Director.*

GMB UNIVERSAL JOINTS, INC.,  
KYOSUNG KOO,  
*Vice President.*

GMB UNIVERSAL JOINTS (WEST)  
INC.,  
J. ROBERT MATHESON,  
*Vice President.*



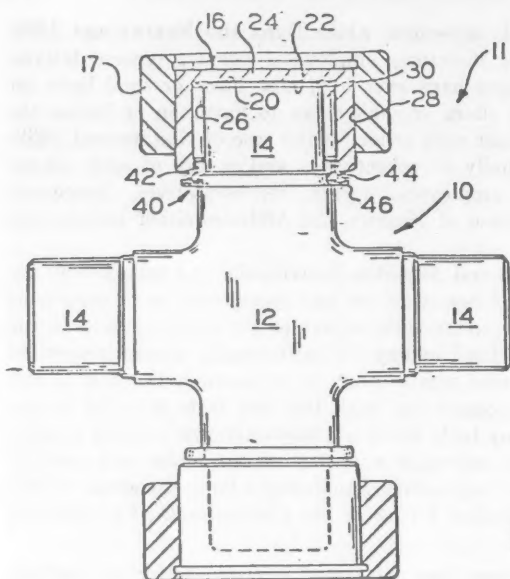


FIG. 1

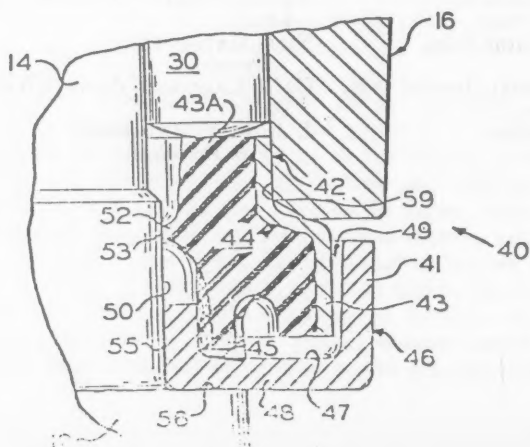
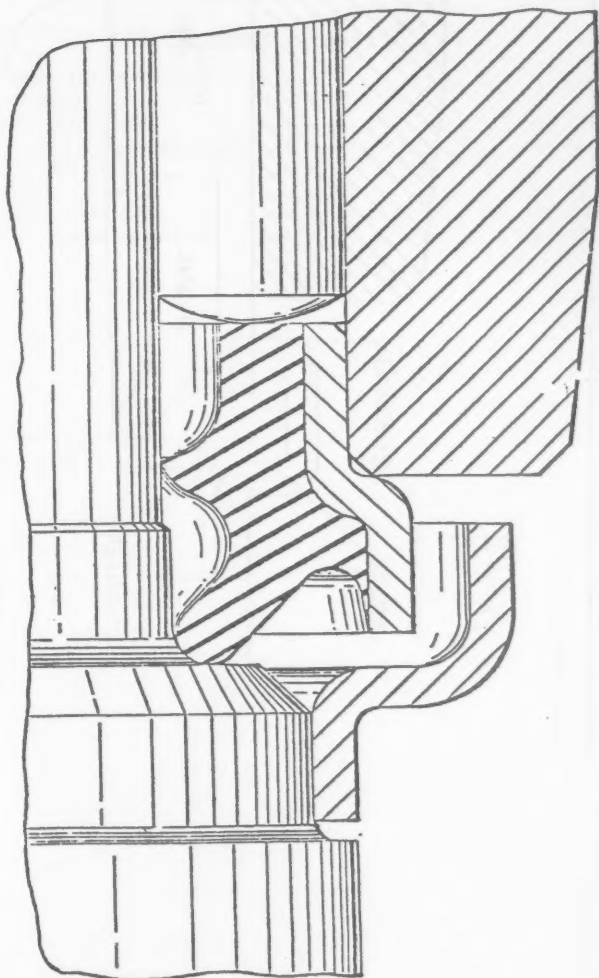
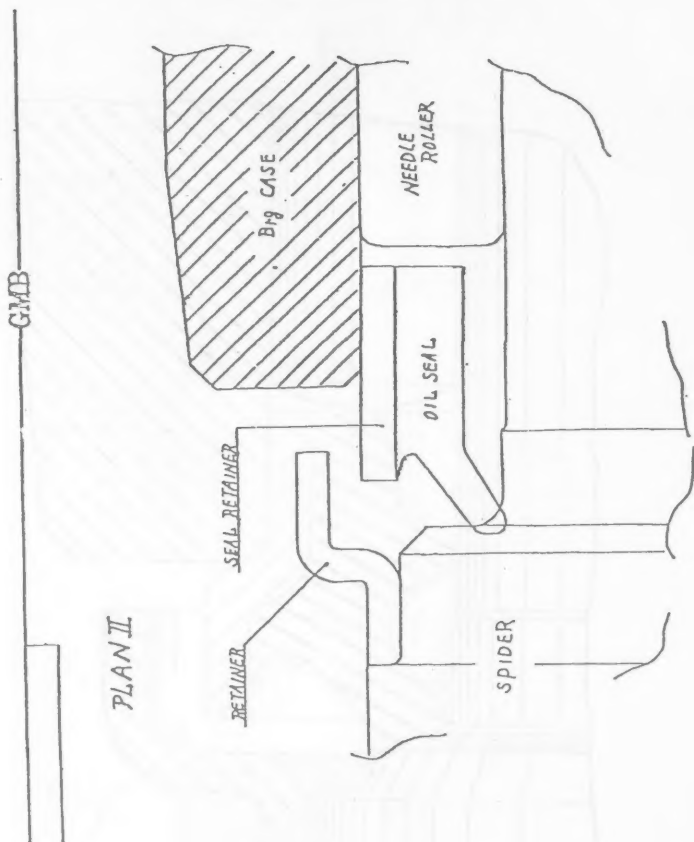




EXHIBIT I





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DEPARTMENT OF THE TREASURY  
U.S. CUSTOMS SERVICE  
WASHINGTON, D.C. 20229

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(TREAS. 552)



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